



**U.S. DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

DATE PREPARED 07/29/86

Re: Tri-County Growers  
86-TLC-7

**DECISION AND ORDER**

Referenced employer requested expedited administrative judicial review under 20 C.F.R. 655.212 from denial by Regional Administrator (RA) on July 9, 1986 of Temporary Labor Certification (TLC) for 575 harvest workers and 5 cooks to be employed in 1986 apple harvest in West Virginia.

RA denied certification because TLC application: (1) failed to identify with specificity the crewleader's pay; (2) failed to offer a piece rate of 52 cents per box; (3) improperly required prospective workers to read entire job order; (4) failed to establish that productivity requirements applicable to U.S. workers also apply to foreign workers. In addition, RA cited Tri-County's failure to pay Adverse Effect Wage Rate (AEWR) in 1982, and its failure to resolve employer status, as additional reasons for denial of TLC.

Employer's rebuttal dated July 22 is insufficient. Employer's statement re: crewleader's pay (0-15 percent override) still not specific: RA's determination that it is unduly burdensome to require perspective workers to read entire job order is reasonable: and employer admits that the other deficiencies cited by RA have not yet been resolved.

Therefore, RA's denial of TLC is AFFIRMED.

**JEFFREY TURECK**  
Administrative Law Judge

JT/gaf